AHMAD SHARIL NOR RASIT & ORS v. BANK NEGARA MALAYSIA; CIMB BANK BHD & ANOR (PROPOSED INTERVENERS)

HIGH COURT MALAYA, KUALA LUMPUR
AHMAD KAMAL MD SHAHID J
[JUDICIAL REVIEW NO: WA-25-342-04-2022]
14 JUNE 2023

Abstract – *A party cannot be said to have any direct interest or even 'a proper person to be heard' under O. 53 r. 8 of the Rules of Court 2012 when they are not involved in the decision-making process of the relevant authority. If the reliefs sought are in relation to the internal process of the authority, it would be frivolous to allow proposed interveners to intervene as they are not directly affected or involved.*

ADMINISTRATIVE LAW: *Judicial review – Proceedings – Intervention – Application by proposed interveners to intervene – Whether proposed interveners had direct interest or involvement – Whether issues raised by proposed interveners relevant to determine original issue in judicial review proceeding – Whether there was justification for proposed interveners to intervene – Whether proposed interveners proper persons to be heard within meaning of O. 53 r. 8(1) of Rules of Court 2012*

CIVIL PROCEDURE: *Parties – Intervention – Application by proposed interveners to intervene in judicial review proceeding – Whether proposed interveners had direct interest or involvement – Whether issues raised by proposed interveners relevant to determine original issue in judicial review proceeding – Whether there was justification for proposed interveners to intervene – Whether proposed interveners proper persons to be heard within meaning of O. 53 r. 8(1) of Rules of Court 2012*

This was an application by the proposed interveners by way of notice of application (encl. 14) to intervene in this judicial review ('JR') proceedings and be named as respondents. The applicants were customers of the proposed interveners and they maintained savings and current accounts ('the accounts') with the proposed interveners. The respondent was a statutory body established and governed under the Central Bank of Malaysia Act 2009. Being a supervisory and enforcement body, it was also tasked to, amongst others, to supervise and oversee financial institutions such as the proposed interveners. In the beginning of the year 2022, the applicants' accounts were unilaterally and suddenly frozen or 'earmarked' without any notice or warning. There were also some funds that were unlawfully debited and/or set off from the applicants' accounts ('applicants' complaints'). The applicants sought clarification for the freezing and/or earmarking of their

accounts from CIMB. However, CIMB did not thoroughly explain the errors or the reasons behind the freezing and/or earmarking of the accounts. The applicants issued a letter of demand to the respondents seeking for a written confirmation on, *inter alia*, the following questions: (i) whether the Central Bank of Malaysia through the relevant departments have conducted an investigation and/or supervisory action against the banks for the alleged erroneous double crediting, of any possible offences and contravention with provisions in the Financial Services Act 2013 ('FSA'), Islamic Financial Services Act 2013 ('IFS') and other related policy documents and legal instruments under the purview of the Central Bank of Malaysia; and (ii) what was the status of the Central Bank of Malaysia's investigation and supervisory action against the banks for the alleged erroneous double crediting. As the respondent did not respond to the letter of demand, the applicants filed official complaints *via* the respondent's BNMTELELINK. This form was the main issue in the JR proceeding, wherein, to review whether the respondent had dealt with the applicants' complaints in accordance with the law or not. The respondent did not respond, thus, the applicants filed this application for JR at the High Court against the respondent. The proposed interveners, who desired to be heard in opposition to the applicants' application, claimed that they had a direct interest in the applicants' application for JR as, *inter alia:* (i) the proposed interveners had a contractual relationship with the applicants who were customers of the proposed interveners; (ii) the *mandamus* order sought by the applicants adversely and directly affected the proposed interveners; and (iii) the proposed interveners' intervening application was *bona fide* and was not prejudicial to the interests of the applicants in any way. The issue to be determined before this court was whether the proposed interveners were proper persons to be heard within the meaning of O. 53 r. 8(1) of the Rules of Court 2012 ('ROC').

Held (dismissing proposed interveners' application):

(1) The applicants, in the present JR proceedings, sought for, *inter alia,* an order for *mandamus* to direct the respondent to provide the status of the investigation on the applicants' complaints against CIMB Bank Berhad and CIMB Islamic Bank Berhad. The reliefs sought by the applicants were not directly affected by any decision made under the JR proceeding since the reliefs sought were in relation to the internal process and decision-making of the respondent that refused to deal with the applicants' complaint and to initiate against its subjects. The proposed interveners did not have any direct interest and was not in any way involved in the respondent's refusal and/or omissions to deal with the applicants' complaint and therefore were not proper persons to be heard in this JR proceeding. (paras 12-15)

(2) The fact that the investigation was against the proposed interveners did not give any rights for the proposed interveners to be proper persons and oppose the JR proceeding since there was no deprivation of proprietary interest or legal interest against the proposed interveners if the reliefs were allowed as the applicants sought for the respondent to deal with the applicants' complaints in accordance with s. 218 of the FSA and/or s. 229 of the ISF. Even if this court were to allow the applicants' JR, the extension of the order would only sanction the respondent to carry out its duty to initiate a proper investigation into the applicants' complaints and respond towards the applicants' complaints according to the law and due process. Therefore, the proposed interveners were not involved in the decision-making and/or any internal management that gave rise to the decision and/or omission by the respondent. (paras 16-18)

(3) The proposed interveners' argument that they would be impacted by the decision of this JR application could not be true as without the JR application, the proposed interveners shall still be compelled to oblige with any request or instruction by the respondent in pursuant to the FSA or ISF, amongst others, considering their survival very much was depending on the respondent's action in ordinary times. Further, any rights and liabilities of the proposed interveners in the other civil suits were not settled by the disposal of this JR proceeding. (paras 20 & 21)

(4) The applicants' cause papers in the JR proceeding were central to the issue of whether the respondent's omissions and/or refusal were in accordance with the law and whether it was appropriate, reasonable, rational and with *bona fide* intention. However, the proposed interveners had introduced a separate issue and cause of action before this court, *ie*, money had and received and unjust enrichment against the applicants which this court was of the opinion that it shall not be the jurisdiction to review the respondent's omissions and/or refusal. Based on the foregoing and the reliefs sought, there was no potential on demand for any unlimited access towards any purported confidential information and operation of the proposed interveners. By allowing this application, there would be a multiplicity of proceedings, and it was inappropriate for the proposed interveners to urge this court to determine on the foregoing issues as it had been dealt and circulated in other civil suits. This JR application was to assess the legality, reasonability, proportionality and the intention of administrative actions, which amongst others, included the supervisory and regulatory powers of the respondent. The issue sought and raised by the proposed interveners was not relevant to determine the original issue in this JR proceeding. (paras 24-29)

(5) A party cannot be said to have any direct interest or even a proper person under O. 53 r. 8 of the ROC when they are not involved in the decision-making process of the relevant authority. Herein, the proposed interveners were not involved in the respondent's decision-making process in relation to the applicants' complaints. Any special knowledge of the proposed interveners did not entail for them to be proper persons. The respondents may explain on their omissions and/or refusal to deal with the applicants' complaints without any assistance from the proposed interveners. Any privy knowledge of the proposed interveners on their operation did not entitle them to be joined in the JR proceeding as the proposed interveners did not involve themselves in the respondent's omission and or/refusal. The proposed interveners had failed to prove that they were persons directly affected by the JR proceeding which justified them to intervene. (paras 31-34)

Case(s) referred to:

Advance Synergy Capital Sdn Bhd v. The Minister Of Finance, Malaysia & Anor [2011] 7 CLJ 557 CA ***(refd)***

Koh Siew & Ors v. Government of Malaysia & Ors [2021] MLJU 2748 ***(refd)***

Majlis Agama Islam Selangor v. Bong Boon Chuen & Ors [2009] 6 CLJ 405 FC ***(refd)***

Public Bank Bhd v. New Ace Digital Print Sdn Bhd & Anor [2019] 5 CLJ 1 FC ***(dist)***

R v. Rent Officer Service, ex parte Muldoon; R v. Rent Officer Service, ex parte Kelly [1996] 3 All ER 498 ***(refd)***

Legislation referred to:

Financial Services Act 2013, s. 218

Islamic Financial Services Act 2013, s. 229

Rules of Court 2012, O. 32 r. 13(2)(a), O. 53 r. 8(1)

For the applicants - Muhammad Azrul Haziq Khirullah & Nurul Hibbah Abdul Khalid; M/s Nazmi Zaini Chambers

For the respondent - Janice Anne Leo & Adrienne Sena; M/s Steven Thiru & Sudhar Partnership

For the proposed interveners - Jeyanthini Kannaperan, Rabindra S Nathan, Sathya Kumardas, Chong Yun Xin & Mohammad Daud Sulaiman; M/s Shearn Delamore & Co

Reported by Suhainah Wahiduddin

JUDGMENT
(encl. 14)

Ahmad Kamal Md Shahid J:

Introduction

[1] This is an application by the proposed interveners by way of notice of application (encl. 14) dated 1 July 2022 to intervene in this judicial review (JR) proceedings and be named as respondents.

[2] The proposed interveners are seeking the following reliefs:

(i) CIMB Bank Berhad, the first proposed intervener, be granted leave to intervene in this application for JR No. WA-25-342-04/2022 filed herein by the applicants and be added as the second respondent;

(ii) consequential upon prayer (i) above, that the intitulement to the application for JR No. WA-25-342-04/2022 be amended to add the name of CIMB Bank Berhad, the first proposed intervener, as the second respondent;

(iii) CIMB Islamic Bank Berhad, the second proposed intervener, be granted leave to intervene in this application for JR No. WA-25-342-04/2022 filed herein by the applicants and be added as the third respondent;

(iv) consequential upon prayer (iii) above, that the intitulement to the application for JR No. WA-25-342-04/2022 be amended to add the name of CIMB Islamic Bank Berhad, the second proposed intervener, as the third respondent;

(v) the costs of this application be costs in the cause of the proceeding herein; and

(vi) such further orders and/or consequential orders under O. 53 r. 8 of the Rules of Court 2012 (ROC) and/or directions and/or other relief are to be granted as this Honourable Court deems fit and proper.

[3] The grounds of this application are set out in the affidavit in support of the proposed intervener to be affirmed and filed within 14 days from the date of filing of this application pursuant to O. 32 r. 13(2)(a) of the ROC and in brief are as follows:

(i) the proposed interveners are proper persons who desire to be heard in opposition to the applicants' application.

(ii) the proposed interveners have a direct interest in the applicants' application for JR as:

(a) the proposed interveners have a contractual relationship with the applicants who are customers of the proposed interveners;

(b) the applicants' complaint stems from the exercise of the proposed interveners' contractual rights to recover duplicate credits that were mistakenly credited into the accounts of the applicants by reason of a processing error of incoming transfer of funds *via* MoneySend;

(c) the *mandamus* order sought by the applicants adversely and directly affects the proposed interveners.

A (iii) the respondent does not know of and/or is not privy or party to some of the factual matters raised in the applicants' application for JR, which may only be properly explained by the proposed interveners.

(iv) the proposed interveners' intervening application is *bona fide* and is not prejudicial to the interests of the applicants in any way. In fact, this
B intervening application will facilitate a comprehensive determination of the applicants' case by this Honourable Court.

[4] After the hearing, I dismissed the proposed interveners' application in encl. 14. I now set out the grounds for my judgment.

C **Background Facts**

[5] The background facts gathered from the cause papers and submissions by parties are as follows:

(i) the applicants are and were at all material times customers of the
D proposed interveners and they maintained savings/savings-I/current/current-I accounts (collectively defined as the accounts) with the proposed interveners;

(ii) the respondent is a statutory body established and governed under the Central Bank of Malaysia Act 2009 to promote monetary stability and
E financial stability conducive to the sustainable growth of the Malaysian economy. Being a supervisory and enforcement body, it is also tasked to, amongst others, supervise and oversee financial institutions such as CIMB in Malaysia.

(iii) the first proposed intervener (CIMB Bank Berhad) is a financial
F institution incorporated under the laws of Malaysia with its registered address at Level 13, Menara CIMB, Jalan Stesen Sentral 2, Kuala Lumpur Sentral, 50470 Kuala Lumpur and is licensed to and carries on the business of banking as defined in the Financial Services Act 2013.

G (iv) the second proposed intervener (CIMB Islamic Bank Berhad) is a financial institution incorporated under the laws of Malaysia with its registered address at Level 13, Menara CIMB, Jalan Stesen Sentral 2, Kuala Lumpur Sentral, 50470 Kuala Lumpur and is licensed to and carries on the business of banking as defined in the Islamic Financial
H Services Act 2013.

(v) in or around January to February 2022, the applicants' accounts were unilaterally and suddenly frozen or 'earmarked' (having the effect of frozen accounts wherein transactions were restricted or suspended from being carried out *via* the accounts) without any notice or warnings.
I There is also a total sum of RM1,868,585.06 (RM1,007,702.91 as of

6 April 2022 sought in the Kuala Lumpur High Court Civil Suit No: WA-22NCC-137-04/2022 and RM1,007,702.91 as at 25 May 2022 sought in the Kuala Lumpur High Court Suit No: WA-22NCC-219-05/2022) unlawfully debited and/or set off from the applicants' accounts (applicants' complaints).

(vi) the applicants sought clarification for the freezing and/or earmarking of their accounts from CIMB, however, CIMB and/or their employees and/or agents and/or representatives did not thoroughly explain the errors or the reasons behind the freezing and/or earmarking of the accounts.

(vii) between 6 February 2022 and 11 February 2022, CIMB made several statements to the press which infer that:

(a) the freezing and/or earmarking of the accounts were due to a processing error;

(b) the processing error has caused duplicate payments to be accidentally banked into some customers' accounts;

(c) the processing error was related to a specific third-party financial remittance service; and

(d) monies have not been debited from affected customers' account.

(viii) on 14 February 2022, the solicitors acting for the first to 12th applicants issued a letter of demand to CIMB. The letter was forwarded to the respondent for its attention.

(ix) on 25 February 2022, the solicitors acting for the 16th applicant together with the 39 others listed in Annexure A in the JR application issued a letter of demand to CIMB. The letter was forwarded to the respondent for its attention.

(x) on 4 March 2022, the solicitors acting for the 13th to 15th applicants issued a letter of demand to the proposed interveners. The letter was forwarded to the respondent for its attention.

(xi) on 4 March 2022, the collective applicants' solicitors issued a letter of demand to the respondent seeking for a written confirmation on the following questions by 18 March 2022 (Friday) at 5pm:

(a) whether the Central Bank of Malaysia through the relevant department(s) have conducted an investigation and/or supervisory action against the banks for the alleged erroneous double crediting, of any possible offences and contravention with provisions in the Financial Services Act 2013, Islamic Financial Services Act 2013 and other related policy documents and legal instruments under the purview of the Central Bank of Malaysia?

(b) what is the status of the Central Bank of Malaysia's investigation and supervisory action against the banks for the alleged erroneous double crediting?

(c) in case the investigation and/or supervisory action against the banks has been initiated, please confirm the estimated timeline for conclusive finding and result on the same;

(d) whether the Central Bank of Malaysia through the relevant department(s) have conducted an investigation on the banks in relation to their debt-recovery effort, of any possible contravention on Circular of Fair Debt Collection Practices (BNM/RH/CIR 013-01);

(e) whether the Central Bank of Malaysia has identified and confirmed the particulars of third party financial remittance service providers as claimed by the banks (through their solicitors' reply as well as in public announcement)?

(xii) on 16 March 2022, as the respondent did not respond to the letter of demand (LOD) to BNM on 4 March 2022, the applicants' solicitors filed official complaints *via* the respondent's BNMTELELINK. This form is the main issue in the JR proceeding wherein to review whether the respondent had dealt with the applicants' complaints in accordance with the law or not.

(xiii) on 18 March 2022, the respondent did not respond to the LOD to BNM on 4 March 2022. On 29 April 2022, the applicants filed this application for JR at the Kuala Lumpur High Court against the respondent.

The Law

[6] Order 53 r. 8(1) of the ROC reads as follows:

> **8. Other persons who may be heard (O. 53 r. 8)**
>
> [1] Upon the hearing of an application for judicial review, **any person who desires to be heard in opposition to the application and appears to the Judge to be a proper person to be heard may be heard** notwithstanding that he has not been served with the cause papers in the matter.
>
> (emphasis added)

[7] It is to be noted that O. 53 r. 8 of the ROC confers upon the court a wide discretion to hear a party or person in opposition to an application for JR as long as the following conditions have been fulfilled:

(i) the person desires to be heard in opposition to the application; and

(ii) that person appears to the judge to be a proper person to be heard, notwithstanding that he has not been served with the cause papers in the matter.

[8] In *Majlis Agama Islam Selangor v. Bong Boon Chuen & Ors* [2009] 6 CLJ 405; [2009] 6 MLJ 307; [2009] 2 MLRA 453, the Federal Court laid down the test to be satisfied by a person seeking to intervene and be added as a party in JR proceedings.

> [26] *I am of the view the use of the phrase 'proper person' in O. 53 r. 8(1) of the RHC must be read as referring to persons with a 'direct interest'*. In this regard the test for joinder as a party in judicial review was considered by the House of Lords in *R v. Rent Officer Service, ex parte Muldoon; R v. Rent Officer Service, ex parte Kelly* [1996] 3 All ER 498. *It was concluded in that case that an indirect interest, even on the part of the Secretary of State, was not sufficient to justify joinder. I am of the view the same test would apply to the appellant in the present case. Unlike the position under the UK Civil Procedure Rules (CPR), the right of 'any person to be heard in opposition' in our O. 53 r. 8(1) of the RHC is qualified by the requirement of that person being a 'proper person'*. Rule 54.17.1 of the CPR states 'any person may apply to file evidence or make representation at the hearing of the judicial review'. There is therefore a significant qualification under our O. 53 r. 8(1) of the RHC 1980 which indicates some level of interest. (emphasis added)

[9] In the case of *Majlis Agama Islam Selangor* (*supra*), the Federal Court was of the view that the phrase "proper person" stipulated in O. 53 r. 8(1) of the ROC must be read as referring to persons with a direct interest. It is significant that the party not having any direct interest will not be allowed to be joined as a party, particularly in JR proceedings.

[10] In *Advance Synergy Capital Sdn Bhd v. The Minister Of Finance, Malaysia & Anor* [2011] 7 CLJ 557; [2011] 1 MLRA 477; [2011] 6 MLJ 376, the Court of Appeal had adopted the legal principle in the case of *Majlis Agama Islam Selangor* (*supra*) and held as follows:

> [27] In the instant appeal, so long as the judge has demonstrated a proper exercise of discretion under Order 53 Rule 8(1), on the basis of the facts and circumstances prevailing in each particular case, and established judicial principles, this court would be slow in embarking on an appellate interference.
>
> [28] It is singularly significant that the *Second respondent was the recipient of the MOF approval which is now being challenged by way of judicial review. The Second respondent is directly involved in the MOF approval and will be directly affected by the outcome of the judicial review proceedings. The Second respondent clearly has a direct interest in the outcome of ASC's application for leave at the threshold stage, and so ought to be added as a party to the proceedings. In the context herein, justice and fairness dictate the necessary inclusion of the Second respondent as a party to canvass their opposition on a subject matter directly affecting their interest* (I am grateful to my learned brother Syed Ahmad Helmy bin Syed Ahmad for his input). *Order 53 Rule 8(1) can therefore be invoked to allow the Second respondent to appear as proper party to oppose ASC's application at the*

A *leave stage*. We are of the view that the learned High Court judge has correctly exercised the discretion under Order 53 Rule 8(1). We are therefore unable to sustain the submission advanced for ASC.

(emphasis added)

[11] The term "direct interest" which was referred to *Majlis Agama Islam* B *Selangor* (*supra*) was explained by the English House of Lords in *R v. Rent Officer Service, ex parte Muldoon; R v. Rent Officer Service, ex parte Kelly* [1996] 3 All ER 498 (p. 158) in the following terms:

That a person is *directly affected by something connotes that he is affected without the intervention of any intermediate agency. [....] The Secretary of State would* C *certainly be affected by the decision, and it may be said that he would inevitably or necessarily be affected. But he would, in my opinion, be only indirectly affected, by reason of his collateral obligation to pay subsidy to the local authority*.

(emphasis added)

The Decision Of The Court

D **[12]** The issue to be determined before this court is whether the proposed interveners is a 'proper person to be heard' within the meaning of O. 53 r. 8(1) of the ROC.

Proper Person And Direct Interest

E **[13]** Upon perusal of the cause papers, I am of the view that the proposed interveners do not have any direct interest and does not in any way involve in the respondent's refusal and/or omissions to deal with the applicants' complaint and therefore is not a proper person to be heard in this JR proceedings.

F **[14]** In the present JR proceedings, the applicants seek the following reliefs:

(i) an order for *mandamus* to direct the respondent to provide the status of the investigation on the applicants' complaints against CIMB Bank Berhad and CIMB Islamic Bank Berhad within 48 hours from the date G of the order;

(ii) an order of *mandamus* to direct the respondent to provide an explanation for the delay in the commencement of investigation on the applicants' complaints within 48 hours from the date of the order;

H (iii) an order for *mandamus* to direct the respondent to initiate an investigation against CIMB Bank Berhad and CIMB Islamic Bank Berhad in respect of the freezing and/or earmarking of the applicants' accounts within three days from the date of the order;

I

(iv) an order for *mandamus* to direct the respondent to initiate an investigation against CIMB Bank Berhad and CIMB Islamic Bank Berhad in respect of the alleged processing error causing duplicate transactions into the applicants' accounts within three days from the date of the order;

(v) a declaration that the applicants have suffered loss and damages as a result of the respondent's omission to commence an investigation on the applicants' complaints in their solicitors' letter dated 4 April 2022 without valid reasons for the delay; and

(vi) an order for damages to be assessed and for such damages to be paid by the respondent.

[15] Based on the above, it is clear that the reliefs sought by the applicants are not directly affected by any decision made under the JR proceeding since the relief sought are in relation to the internal process and decision-making of the respondent that refused to deal with the applicants' complaint and to initiate against its subjects.

[16] Even if this court were to allow the applicants' JR, the extension of the order will only sanction the respondent to carry out its duty to initiate a proper investigation into the applicants' complaints and respond towards the applicants' complaints according to the law and due process.

[17] The fact that the investigation is against the proposed interveners does not give any rights for the proposed interveners to be a proper person and opposed the JR proceeding since there is no deprivation of proprietary interest or legal interest against the proposed interveners if the reliefs are allowed as the applicants sought for the respondent to deal with the applicants' complaints in accordance with s. 218 of the Financial Services Act 2013 and/or s. 229 of the Islamic Financial Services Act 2013.

[18] Therefore, it is clear that the proposed interveners are not involved in the decision-making and/or any internal management that gave rise to the decision and/or omission by the respondent.

[19] At the very least, the proposed interveners may only have an indirect interest namely having to answer to the investigation initiated by the respondent which still does not in any way determine the liabilities of the respondent yet. The respondent acts as the intermediate agency between the court order and the proposed interveners which at best, the court order will indirectly affect the proposed interveners.

[20] Further, I am of the view that any rights and liabilities of the proposed interveners in the other civil suits are not settled by the disposal of this JR proceeding.

[21] Therefore, this court finds that the proposed interveners' argument that they will be impacted by the decision of this JR application cannot be true as without the JR application, the proposed interveners shall still be compelled to oblige with any request or instruction by the respondent in pursuant to the Financial Services Act 2013 or Islamic Financial Services Act 2013, amongst others, considering their survival very much depending on the respondent's action in ordinary times.

The Contractual Relationship Between The Applicants And The Proposed Interveners

[22] The proposed interveners alleged that the applicants' complaint is premised upon the contractual relationship between the applicants and the proposed interveners and relied on the decision of the Federal Court in *Public Bank Bhd v. New Ace Digital Print Sdn Bhd & Anor* [2019] 5 CLJ 1; [2019] 3 MLJ 421; [2019] 3 MLRA 347; [2019] 3 AMR 1 to support its contention.

[23] However, I find that the *Public Bank Bhd* (*supra*) case is not relevant in determining the instant application and can be distinguished from the present application wherein the JR application is a specific proceeding specifically to challenge the decision and/or omission of a public authority. However, the *Public Bank Bhd* (*supra*) case was in relation to a civil suit which bears different nature of proceeding that cannot be equated with the instant case.

[24] It is clear that the applicants' cause papers in the JR proceedings are central to the issue of whether the respondent's omissions and/or refusal are in accordance with the law and whether it is appropriate, reasonable, rational and with *bona fide* intention. However, the proposed interveners had introduced a separate issue and cause of action before this court *ie*, money had and received and unjust enrichment against the applicants which this court is of the opinion that it shall not be jurisdiction to review the respondent's omissions and/or refusal.

[25] In gist, this court finds that the main concern raised by the proposed interveners are mainly on the internal management of the proposed interveners and the contractual issue between the applicants and the proposed interveners but the main dispute raised by the applicants is on the behaviour of the respondent in refusing to deal and attend towards the applicants complaints which exclusively separate from the dispute between the applicants and the proposed interveners.

[26] Further, this court finds that based on the foregoing and the reliefs sought, there is no potential on demand for any unlimited access towards any purported confidential information and operation of the proposed interveners.

[27] Further, this court is of the view that by allowing this application, there would be a multiplicity of proceeding, and it is inappropriate for the proposed interveners to urge this Honourable Court to determine on the foregoing issues as it has been dealt and circulated in Civil Suit No. WA-22NCC-84-02/2022 and WA-22NCC-137-04/2022.

[28] Therefore, this court is of the view that this JR application is to assess the legality, reasonability, proportionality, and the intention of administrative actions, which, amongst others, included the supervisory and regulatory powers of the respondent.

[29] Based on the above, this court is of the opinion that the issue sought and raised by the proposed interveners is not relevant to determine the original issue in this JR proceeding.

Involvement Of The Proposed Interveners In The Respondent's Decision-Making Process

[30] Having perused the cause papers in the JR proceeding and the instant application, this court finds that the proposed interveners are not involved in the respondent's decision-making process in relation to the applicants' complaints. It is an established fact that the proposed interveners are the subjects under the purview of the respondent which shows that the respondent's omission and/or refusal in dealing with the applicants' complaints should have any involvement from the proposed interveners.

[31] The findings in *Majlis Agama Islam Selangor* (*supra*) have shown that a party cannot be said to have any direct interest or even a proper person under O. 53 r. 8 of the ROC when they are not involved in the decision-making process of the relevant authority. Even if this court were to allow the proposed interveners to be included as respondents in the JR proceeding, it would be frivolous as the proposed interveners should ought to have no personal knowledge or involvement to explain the respondent's omissions and/or refusal.

Special Knowledge Of The Proposed Interveners

[32] The proposed interveners submit that the respondent does not possess the material information pertaining to the processing error of transfer which took place with the applicants' accounts. Therefore, the participation of the proposed interveners in this JR proceeding will allow a comprehensive determination of matters by this Honourable Court.

[33] Upon perusal of the cause papers, this court is of the view that any special knowledge of the proposed interveners does not entail for them to be a proper person. The proposed intervener's privilege to their internal management and operation is not a central issue in the JR application as it would not answer the question of the respondent's omission and/or refusal.

[34] The respondents may explain on their omissions and/or refusal to deal with the applicants' complaints without any assistance from the proposed interveners. Any privy knowledge of the proposed interveners on their operation does not entitle them to be joined in the JR proceeding as the proposed interveners did not involve in the respondent's omissions and/or refusal.

[35] The High Court in the case of *Koh Siew & Ors v. Government of Malaysia & Ors* [2021] MLJU 2748; [2021] MLRHU 2290 held that:

> [47] The respondents are more than capable in explaining their Decision. So far, the respondents have filed three (3) Affidavits in the judicial review proceedings, and nowhere can it be shown that they are handicapped to answer the issues raised by the applicant. Any assistance or clarification that they need can be obtained from the relevant parties such as the PI and further Affidavits can be filed in. *Any special knowledge that the PI has for that matter (which is another ground that the PI has asserted) can be extended to the respondents and it still does not entail the PI to be a "proper person" with "direct interest" in the judicial review proceedings because O. 53 r. 8 of the ROC provides for "proper person" with "direct interest" who can intervene and not person with "special knowledge"*. The antecedents and background facts of the matter herein have no relevance to the Decision of the respondents which is under review.
>
> (emphasis added)

[36] All in all, this court finds that:

(i) the proposed interveners have no direct interest in the JR proceeding;

(ii) the issues brought and raised by the proposed interveners are not relevant to the fair and just disposal of the issues in the JR proceeding;

(iii) the proposed interveners are not involved in the decision-making and/or any internal management that gave rise to the decision and/or omission by the respondent; and

(iv) any special and/or privy knowledge of the proposed interveners will not assist this Honourable Court in a fair and just disposal of the JR proceeding.

Conclusion

[37] Premised on the aforesaid reasons, I am of the view that the proposed interveners had failed to prove that they are persons directly affected by the JR proceeding which justifies them to intervene.

[38] As such, the proposed interveners' application in encl. 14 is dismissed with costs of RM5,000 to the applicants subject to the allocatur fee.

Lampiran A (Annexure A)

No.	Nama	No. K/P Atau Pendaftaran Perniagaan	No. akaun Cimb Bank Berhad
1.	Mohamad Zulfazreen Bin Rosli	891126-06-5865	7036814547 7076164456
2.	Muhammad Hafiz Bin Azmi	860511-38-5513	7037805838 7637311027
3.	Abdullah Fahad Bin Abd Aziz	900623-02-5065	7020194451
4.	Zamri Bin Ahmad	840119-07-5379	7045806619
5.	Abdul Hadi Bin Jaafar	880329-08-5475	7075215912 7638054352
6.	Muhammad Syafiq Bin Azmi	900911-08-5257	7046022049
7.	Hasmilia Binti Khalid	890928-06-5838	7036287729
8.	Gurnawan Bin Ali	751010-13-6233	7032839097
9.	Azmi Bin Saad	590621-07-5527	7610483992
10.	Ahmad Faruqi Bin Abd Aziz	880825-02-5615	7634608567
11.	Siti Fatimah Binti Mohd Sabriy	880816-03-5088	7633999877
12.	Galaxy Metal Tech	Ac0001360-u	8601891264
13.	Megaat Kherul Bin Kamal Bacha	891123-07-5929	7631938474
14.	Muhammad Hafizuddin Bin Yahya	890114-08-6277	7607757815
15.	Siti Nur Atiqah Binti Yahya	990503-09-5052	7629259995
16.	Muhammad Sharul Azad Bin Hairul Azman	991212-10-6385	7067549483
17.	Muhammad Hassan Akmal Bin Omir	990831-10-6419	7075792215
18.	Ahmad Firdaus Bin Mohd Najri	870920-14-5587	7069988678
19.	Muhammad Hakim Bin Ma'arof	990820-10-6499	7075796487

20.	Megat Mohd Nazreen Bin Megat Mohd Nasir	990514-02-5199	7075723261
21.	Mohd Fadly Bin Mustafa	810703-08-6459	7075715355
22.	Mohamad Amizul Hafiz Bin Mohd Fadzli	001228-02-1081	7060869634
23.	Umar Syarif Bin Ramlan	980508-10-7391	7637664652
24.	Aminoor Asyraf Bin Najuddin	990111-10-5039	7635882296
25.	Raja Zahrule Azhar Bin Raja Khairul Anwar	990901-10-5631	7622188281
26.	Muhammad Ashraf Bin Rashimy	990904-10-5207	7624495472
27.	Mohammad Asri Bin Sahari	990616-01-7579	7636210394
28.	Nur Muhammad Luqman Bin Mohd Ali	941027-14-6937	7636238946
29.	Zainur Zakwan Bin Zainur Hamka	990225-10-5619	7620630813
30.	Mohd Faizal Bin Hussin	840109-14-5265	7636442444
31.	Muhammad Nuzulhakeem Bin Nordin	930514-14-6277	7615821956
32.	Islias Bin Ramli	770109-02-6169	7636457173
33.	Siti Nadia Natassa Binti Daud	941207-14-5456	7634594127
34.	Izwan Bin Mat Isa	880811-04-5041	7637228911
35.	Sharif Mohd Shirazi Al-attas Bin Wan Sabli	901213-13-5987	7635842644
36.	Muhammad Asyraf Bin Lias	990204-10-5169	7636449031
37.	Mohd Kamal Bin Abd Hamid	870704-02-5783	7635808268
38.	Sharimah Binti Abu Bakar	940102-02-5218	7636776701
39.	Emyra Natasha Binti Islias	990806-10-5916	7621698178
40.	Nur Amira Binti Zul Hisham	980822-05-5542	7638483710